

REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-12 are currently pending. No claims have been amended herewith.

In the outstanding Office Action, Claims 1-3, 5-8, and 10-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0028867 to Kryloff et al. (hereinafter “the ‘867 application”); and Claims 4 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘867 application in view of U.S. Patent No. 6,223,026 to Martschitsch et al. (hereinafter “the ‘026 patent”).

Claim 1 is directed to a **mobile phone**, comprising:

a communication section configured to transmit/receive data through a wireless or wired transmission path;

a data processing section configured to process the data transmitted/received by the communication section;

a memory space in which a file processed by the data processing section is arranged;

archive-file creating means for creating an archive file for at least one file to be backed up, wherein identification information of a destination terminal at which the archive file is to be decompressed is attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information; and

means for generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed.

Applicants respectfully traverse the rejection of Claim 1 as anticipated by the '867 application. In addition, Applicants respectfully request that the finality of the Office Action be withdrawn and a new Office Action issued.

Initially, Applicants note that, in the previous amendment, Claim 1 was amended to incorporate limitations recited in original Claim 4, which was, and still is, rejected under 35

U.S.C. § 103(a) as being unpatentable over the '867 application in view of the '026 patent. However, despite the amendment to Claim 1 and the previous reliance on the '026 patent, the outstanding Office Action does not rely on any of the teachings of the '026 patent in its rejection of Claim 1.

The '867 application is directed to a system for generating a patch file from an old version of data and a new version of data, both of which consist of a series of elements. As shown in Figure 3, the '867 application discloses that the old version of data is sorted alphabetically and the new version of data is sorted alphabetically to create respective lists of sorted data. Further, the '867 application discloses that the two lists are recursively compared to search for a match for the data. In this manner, the '867 application discloses that a patch file is created and that several patch files may be aggregated into a secure portable compressed "archive" to decrease the storage and transfer requirements of the patch file. As noted on page 6 of the outstanding Office Action, paragraph [0023] of the published '867 application discloses that "the portable archive includes features to detect the presence of the files to be patched on a target system and then applies the sequence of patches automatically. In other words, the invention provides a self-extracting .ZIP file with intelligence to determine if a patch is necessary and how the patch should be implemented."<sup>1</sup>

However, Applicants respectfully submit that the '867 application fails to disclose archive-file creating means for creating an archive file for at least one file to be backed up, wherein identification information of a destination terminal at which the archive file is to be decompressed is attached to the archive file so that the archive file can be decompressed only at the destination terminal specified by the identification information, as recited in Claim 1. The '867 application is silent regarding identification information of a destination **terminal**.

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<sup>1</sup> See paragraph [0023] of the '867 application.

In this regard, Applicants note that the "Response to Arguments" section of the Office Action on page 7 states that paragraphs 24 and 25 of the '867 application disclose this limitation because these paragraphs teach "the availability of digital certificates, IDs and other forms of authentication that prevents unauthorized users from accessing the files to be extracted." However, Claim 1 recites attachment to the archive file of identification information of a destination terminal, not digital certificates for users.

Further, Applicants respectfully submit that the '867 application fails to disclose means for generating, in the memory space, an access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed, as recited in Claim 1. In this regard, Applicants note that page 3 of the Office Action cites to paragraph 23 of the '867 application as disclosing this limitation because it discloses "sequenced access and only accessed if necessary." As discussed above, paragraph 23 of the published '867 application discloses that "the portable archive includes features to detect the presence of the files to be patched on a target system and then applies the sequence of patches automatically. In other words, the invention provides a self-extracting .ZIP file with intelligence to determine if a patch is necessary and how the patch should be implemented."<sup>2</sup>

Thus, as best understood, the Office Action is asserting that the '867 application discloses the claimed means for generating an access management information file that includes a counter value because it discloses: (1) applying patches in sequence, and (2) only applying the patches if necessary. It is unclear to Applicants what paragraph 23 has to do with the claimed "access management information file that includes a counter value indicating a maximum number of times that the archive file can be accessed," as recited in Claim 1. '867 paragraph 23 doesn't mention a counter or the maximum number of times that

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<sup>2</sup> See paragraph [0023] of the '867 application. Emphasis added.

an archive file can be accessed. Rather, '867 paragraph 23 merely discloses that the patches in an archive file are applied to stored data to update the stored dated in a sequential manner, and only as necessary. This disclosure merely relates to how the underlying data files that have been archived, i.e., the '867 patch files, are used in the '867 system, and is unrelated to the claimed access management information file.

Further, Applicant notes that the Office Action does not specifically identify the claimed access management information file within the teachings of the '867 application. Paragraph 23 of the '867 application only discloses an archive file, but is silent regarding the claimed access management information file, which is generated in a memory space of a mobile phone.

Further, Applicants respectfully submit that the '867 application is silent regarding the mobile phone recited in Claim 1.

For the reasons stated above, Applicants respectfully traverse the rejection of Claim 1 as anticipated by the '867 application.

Independent Claim 6 recites limitations analogous to the limitations recited in Claim 1. Accordingly, for the reasons stated above, Applicants respectfully traverse the rejection of Claim 6 as anticipated by the '867 application.

The '026 patent is directed to a SIM card for a prepaid mobile telephone that includes a counter that keeps track of the amount of telephone charges used by the user of the mobile telephone. The '026 patent discloses that the SIM card stores a value indicating a maximum amount (e.g., in dollars) of telephone usage that can be charged, compares to the maximum amount to a predicted amount for a placed call, and blocks calls according to the result. Further, the '026 patent discloses that the system does not block calls intended for one or

more predetermined numbers stored in card, for example, an emergency number or a number of a server to reload the card.<sup>3</sup>

Regarding Claim 4, Applicants note that Claim 4 clarifies that the access management means decrements the counter value every time the access management information file is opened. In this regard, Applicants note that page 5 of the outstanding Office Action states that the '026 patent discloses this limitation because it discloses a SIM card that adds up the charges being accessed. However, Applicants note that Claim 4 states that the counter value is decremented, not incremented, as disclosed by the '026 patent. Further, as discussed above, the values disclosed by the '026 patent are unrelated to the number of times that an archive file is accessed. For this additional reason, Applicants respectfully submit that Claim 4 patentably defines over any proper combination of the '867 application and the '026 patent.

Further, Applicants note that Claim 3 clarifies that the file associating designating means generates a file-link designating file that designates a link between the at least one file whose archive file was created and the access management information file, which includes the counter value. See Figure 13. Applicants respectfully submit that this limitation is not taught or suggested by any proper combination of the '867 application and the '026 patent.

Claim 11, which depends from Claim 1, clarifies that the mobile phone further comprises means for authenticating the access management information file using an independent key different from a symmetric key used to authenticate the archive file. Further, Claim 12 clarifies that the mobile phone further comprises means for simultaneously authenticating the archive file and the access management information file. The Office Action cites to paragraph 16 of the '867 application, which merely discloses the use of encryption and digital signatures. Applicants respectfully submit that the specific

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<sup>3</sup> See '026 patent, Abstract.

limitations recited in Claims 11 and 12 are not disclosed by '867 paragraph 16. For example, Claim 11 recites two different keys, but the Office Action does not specifically address this limitation.

Thus, it is respectfully submitted that independent Claims 1 and 6 (and all associated dependent claims) patentably define over any proper combination of the '867 application and the '026 patent.

Consequently, in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

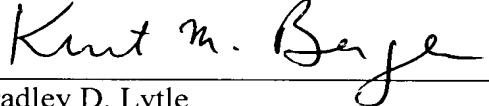
Respectfully submitted,

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